

IN RE: APPEAL OF ALVERNIA UNIVERSITY RELATIVE TO A PROPERTY LOCATED AT 323 ST. BERNARDINE STREET, CITY OF READING, BERKS COUNTY, PENNSYLVANIA	: BEFORE THE ZONING HEARING : BOARD OF THE CITY OF READING, : PENNSYLVANIA : : APPEAL NO. 2021-34 : : VARIANCE, INTERPRETATION : AND/OR SPECIAL EXCEPTION
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**DECISION OF THE ZONING HEARING
BOARD OF THE CITY OF READING**

AND NOW, this 12th day of January, 2022, a hearing having been held on December 8, 2021, upon the application of Alvernia University, notice of such hearing having been first sent and advertised in accordance with the provisions of the Pennsylvania Municipalities Planning Code and the City of Reading Zoning Ordinance, as amended, the Zoning Hearing Board of the City of Reading (hereinafter referred to as the “Zoning Board”) renders the following decision:

FINDINGS OF FACT

The Zoning Board finds the following facts:

1. Applicant is Alvernia University, with a principal mailing address of 400 St. Bernardine Street, Reading, Berks County, Pennsylvania 19607 (hereinafter referred to as the “Applicant”).
2. Applicant is the fee simple owner of property located at 323 St. Bernardine Street, City of Reading, Berks County, Pennsylvania 19601 (hereinafter referred to as the “Subject Property”).
3. The Subject Property is located in the R-2 Residential Zoning District and Institutional Overlay District as those terms and districts are defined by the Zoning Ordinance of the City of Reading, as amended (hereinafter referred to as the “Zoning Ordinance”).
4. Applicant was represented at the hearing by Kevin M. Walsh, Esquire, of Hourigan, Kluger & Quinn, 600 Third Avenue, Kingston, PA 18704.
5. Applicant is appealing the denial of a zoning permit to convert an existing single-family dwelling to an educational use (crime scene educational lab), or alternatively seeks a variance from the off-street parking, sidewalk, buffer, screening and dimensional requirements.

6. Applicant is seeking relief from the following sections of the Zoning Ordinance: 600-607(D), 600-817(B), 600-1603(A)(41), 600-1505(A) and (B), 600-1401(A) and 600-1402.
7. The existing use of the Subject Property is a one-family detached residential dwelling which is permitted by right within the R-2 Zoning District.
8. Educational use by a college or university is permitted by special exception within the R-2 Zoning District and by right within the INS Overlay District.
9. Applicant initially submitted Zoning Permit 2021-531 which was denied by the Zoning Office for various zoning compliance issues.
10. Applicant proposes to use the Subject Property for educational use as a mock crime scene lab.
11. The dwelling located on the Subject Property will remain in its present state with the exception of the replacement of some finishes such as flooring and painting.
12. Alvernia's students would only be present at the Subject Property during normal daylight class times.
13. Alvernia students would most likely start the class at the main Alvernia campus and be transported to the Subject Property by shuttle bus.
14. Although the occupancy of the Subject Property will change from residential to educational use, the premises will maintain a maximum occupancy of twenty (20) persons or less.
15. There will be no offices located on the Subject Property and there will be no lodging or residential use of the Subject Property.
16. Section 600-817(B) of the Zoning Ordinance requires that properties within the INS District maintain a 15' side yard setback. The existing dwelling on the Subject Property maintains an 11.5' setback from the southern property line. Applicant seeks the recognition of an existing dimensional nonconformity pursuant to Section 607(D) or, in the alternative, a variance from Section 600-817(B) to allow an 11.5' side yard setback from the southern property line.
17. Section 600-1603(A)(41) of the Zoning Ordinance requires a minimum of four (4) off-

street parking spaces. The Subject Property currently maintains sufficient space for one (1) off-street parking space. Applicant seeks a variance from the requirements of Section 600-1603(A)(41).

18. Section 600-1505 of the Zoning Ordinance requires that sidewalks be provided adjacent to public streets and from any adjacent arterial street to a pedestrian entrance. No sidewalks currently exist on or adjacent to the Subject Property. Applicant requests the recognition of an existing nonconformity in the lack of sidewalks pursuant to Section 600-607(D) or, in the alternative, a variance from Section 600-1505(A) and (B) to waive the sidewalk requirement.

19. Section 600-1401(A) of the Zoning Ordinance establishes certain buffering requirements such as where a new principal nonresidential use is proposed to abut an existing residential use on another lot in a residential district. Applicant states that due to the size and existing conditions on the Subject Property, it is impossible to maintain the required buffer strip. Applicant seeks a variance from Section 600-1401(A).

20. Section 600-1402 of the Zoning Ordinance establishes certain screening requirements in buffer strips. Applicant states that due to the size and existing conditions on the Subject Property, it is impossible to maintain the required buffer strip. Applicant seeks a variance from Section 600-1402.

21. Applicant states the strict application of the provisions of the Zoning Ordinance would result in practical difficulties and/or unnecessary hardship inconsistent with the general purposes and intent of the Zoning Ordinance.

22. Applicant states there are exceptional and/or extraordinary circumstances or conditions applying to the Subject Property involved or to the intended use or development of the Subject Property that do not apply generally to other properties or uses in the same zoning district or neighborhood.

23. Applicant states the granting of the relief will not be a substantial detriment to the public interest or to the other properties or improvements in the zoning district and will not materially impair the purposes of the Zoning Ordinance.

24. The Board finds the requested relief will not be a detriment to the health, safety and welfare of the neighborhood.

25. There were no objections to the requested relief.

DISCUSSION

Applicant is appealing the denial of a zoning permit to convert an existing single-family dwelling to an educational use (crime scene educational lab), or alternatively seeks a variance from the off-street parking, sidewalk, buffer, screening and dimensional requirements. The proposed use will not be a detriment to the health, safety and welfare of the neighborhood and is in keeping with the spirit and intent of the Ordinance.

CONCLUSIONS OF LAW

1. Applicant is Alvernia University.
2. The Subject Property is located at 323 St. Bernadine Street, Reading, Berks County, Pennsylvania 19607.
3. The Subject Property is located in the R-2 Residential Zoning District and the Institutional (INS) Overlay District.
4. The specific sections of the Zoning Ordinance appealed are Sections 600-607(D), 600-817(B), 600-1603(A)(41), 600-1505(A) and (B), 600-1401(A) and 600-1402.
5. The Zoning Board is permitted to provide interpretation and grant applications for variances and special exceptions as set forth in the relevant sections of the Zoning Ordinance.
6. In order to grant the requested relief, Applicant must show that it has satisfied the relevant sections of the Zoning Ordinance.
7. After reviewing the Applicant's request in detail, the Zoning Hearing Board enters the following Decision:
 - a. Applicant is granted relief from all relevant sections of the Zoning Ordinance to use the Subject Property for educational use as a mock crime scene lab.
 - b. A Revised Plan of Record shall be submitted to the Planning Commission for review.
 - c. Applicant shall comply with all applicable provisions that apply to the use and

occupancy of a nonconforming building.

d. The building shall comply with all fire, safety and accessibility requirements specified by the City of Reading prior to occupancy.

e. Applicant shall apply for all required building, trades and fire permits and submit to all inspections deemed necessary.

f. Applicant shall comply with all relevant building and occupancy codes and ordinances as well as the plans and testimony submitted before the Zoning Board.

g. Applicant may not use, expand, alter or otherwise use the Subject Property inconsistently with the contents of this Decision without making application requesting further relief from the Zoning Board.

h. Failure to comply with any of these above-referenced conditions shall mean the immediate revocation of the relief granted herein.

The decision of this Board is by a vote of 5 to 0 .

**ZONING HEARING BOARD OF THE CITY
OF READING**

/s/ Philip Rabena

PHILIP RABENA, CHAIRMAN

/s/ Thomas Fox

THOMAS FOX

/s/ Jeffrey Gattone

JEFFREY GATTONE

/s/ William Harst

WILLIAM HARST

/s/ Jared Barcz

JARED BARCZ